

## **16.20 General Requirements for Land Disturbing Activities / Clearing and Grading**

### **16.20.010 Purpose.**

A. The purpose of this chapter is to enact regulations consistent with the environmental element of the City's Comprehensive Plan to protect water and earth resources, fish and wildlife habitat, and public health and safety from the potential adverse impacts associated with clearing and grading private and public land in the city. It is also the purpose of this chapter to protect the functions and values of critical areas as required under the state's Growth Management Act, Shoreline Management Act, and LMC Title 16.

B. The regulations contained in this chapter implement required provisions of the City's National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Discharges from Small Municipal Separate Storm Sewers in Western Washington. These provisions are intended to protect receiving waters or waters of the state from pollution, mechanical damage, excessive flows and other conditions which may increase erosion, turbidity, or other forms of pollution, reduce flow or which degrade the environment.

C. The regulations contained in this chapter focus on prevention of potential adverse impacts associated with clearing and grading activities through a proactive approach rather than remediation of (or a reactive approach to) adverse impacts.

D. It is expressly the purpose of this chapter to provide for and promote the health, safety, and welfare of the general public.

E. This chapter is not intended to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by its terms.

### **16.20.020 Related codes and regulations.**

A. The requirements of this chapter supplement other City codes and regulations, including the Stormwater Management System Code (LMC 13.24), the Shoreline Management Code (16.08), the Critical Areas Code (LMC 16.16), the Land Development Code (LMC 17), and the Subdivision Code (LMC18), now or as hereafter amended.

B. To comply with the provisions of this chapter, the applicant shall comply with the applicable engineering standards contained in the City of Lynden's Design and Development standards, Chapters 3 and 4 of Volume II of the adopted Ecology Manual and Appendix 1 Section 4 of the City's Phase II NPDES permit.

C. Approvals, decisions, and permits granted under this chapter are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance is still required with all applicable federal, state, and local laws and regulations. The responsibility for determining the existence and application of other agency requirements rests solely with the applicant; provided, that to the extent known, the city will inform the applicant of other agency requirements or permits that may apply to a site.

**16.20.030 Conflict of provisions.**

Should a conflict occur between the provisions of this chapter, the Stormwater Management Code (LMC 13.24), the Design and Development standards and other manuals adopted by the city in relation to this chapter, or between this chapter, and related manuals with laws, regulations, codes, or rules promulgated by other authority having jurisdiction within the city, the most restrictive requirement shall apply, except when constrained by federal or state law, or where specifically provided otherwise in this chapter.

**16.20.040 Severability.**

If any provision of this chapter, clearing and grading development standards, or related manuals, or its application to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of this chapter, clearing and grading development standards, or related manuals, or the application of the provision to other persons or circumstances, is not affected, and to this end the provisions of this chapter are severable.

**16.20.050 Director's authority.**

A. The director is charged with the enforcement of this chapter and whenever the director has reason to believe a violation has occurred, the director may initiate enforcement actions pursuant to LMC 1.24 or 17.13, whichever is more restrictive, now or as hereafter amended.

B. The director shall have the authority to prepare and update, as needed, clearing and grading development standards to establish minimum requirements for the design and construction of erosion and sedimentation controls and other best management practices. The clearing and grading development standards shall be consistent with this chapter and adopted city policies.

### **16.20.060 Permit requirements.**

A. A clearing and grading permit is required for a project that involves any of the following described in subsections (A)(1) through (4) of this section. A clearing and grading permit is not required for projects listed in subsection B of this section. In applying this section, the total proposal shall be considered. Any project that requires a permit shall also comply with applicable provisions of LMC 13, 16, 18, and all other applicable city codes.

1. Any clearing, filling, or excavation in a critical area or critical area buffer;
2. Fill and/or excavation totaling over 50 cubic yards but less than 250 cubic yards. This amount of fill and/or excavation is exempt from the requirements of LMC 16.05, now or as hereafter amended;
3. Creation or addition of 2,000 square feet, or greater, of new plus replaced hard surface area within a one-year period;
4. Project that disturbs 7,000 square feet or more of land. These projects also require a construction stormwater pollution prevention plan (minimum requirement 2 for stormwater management per 13.24.050 now or as hereafter amended).

B. The following activities are exempt from the requirements for a clearing and grading permit:

1. Agricultural crop management of existing farmed areas at the time of adoption of this ordinance;
2. Routine landscape maintenance, as described in LMC 19.61.050, now or as hereafter amended;
3. Work needed to correct an immediate danger to life or property in an emergency situation as declared by the mayor or the city manager or his/her designee;
4. Cemetery graves involving less than 50 cubic yards of excavation, and related filling, per each cemetery plot;
5. Routine maintenance of existing, constructed stormwater drainage facilities located outside of a critical area or critical area buffer, including, but not limited to, detention/retention ponds, wetponds, sediment ponds, constructed drainage swales, water quality treatment facilities such as filtration systems, and regional stormwater facilities that are necessary to preserve the water quality treatment and flow control functions of the

facility. This exemption does not apply to any expansion and/or modification to stormwater drainage facilities; or

6. Roadway repairs and overlays within public street rights-of-way for the purpose of maintaining the pavement on existing paved roadways, such that asphalt removal or milling does not expose more than 1,000 square feet of gravel base or subgrade. This exemption does not apply to curbs, gutters, sidewalks, utilities, new traffic calming devices, new roadways, or the widening of the paved surface of existing roadways.

C. An exemption from a clearing and grading permit does not exempt the person or property owner doing the work from meeting all applicable city codes, including, but not limited to, the Stormwater Management Code (LMC 13.24) which requires that sediment and other pollutants be kept from the City's stormwater drainage system.

D. The director may categorize clearing and grading permits by different types for administrative purposes, and different fees may be charged for different types. A Clearing and grading approval may be issued as a component of a building permit, or other permit, rather than as a separate permit, when clearing and grading activity is proposed as part of said permit. The director may require that single-family building permits and clearing and grading permits be combined. Clearing and grading activity must meet the requirements of this chapter even when a separate clearing and grading permit is not required.

E. The director shall specify what submittal and application materials are required for a complete clearing and grading permit application, including the type of submittals, the required level of detail, the minimum qualifications of preparers of technical documents, and the number of copies. The director may administratively establish different submittal requirements for different types of clearing and grading permits. In the case a construction stormwater pollution prevention plan is required, it must be submitted with the permit application materials. The director may, as well, require additional information if needed for review of an application.

F. As a condition of applying for a permit for a project that includes clearing and grading, the applicant shall allow the city to enter the subject property in order to evaluate the proposed clearing and grading.